

ITEL

RECORDATION NO. 13077-G
FILED 1408

FEB 24 1983 12 15 PM

INTERSTATE COMMERCE COMMISSION **Rail Division**Two Embarcadero Center
San Francisco, California 94111
(415) 955-9090
Telex 34234

3-055A137

No. 10.00
Date **FEB 24 1983**Fee \$ 10.00
ICC Washington, D. C.

December 22, 1982

Ms. Agatha Mergenovich, Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. Section 11303(a) and the Interstate Commerce Commission's rules and regulations thereunder, I enclose herewith on behalf of Itel Corporation, Rail Division ("Itel"), for filing and recordation under the Car Lease Agreement dated as of March 10, 1981, between Itel and Detroit, Toledo and Ironton Railroad Company, which was filed on April 30, 1981 at 2:25 P.M. and given recordation No. 13077, four (4) counterparts of the following document:

13077-G

Assignment of Lease and Agreement dated as of April 28, 1981 by and between Itel and Providence and Worcester Company (the "Assignment").

The names and addresses of the parties to the aforementioned Assignment are:

1. Itel Corporation
Rail Division-Assignee
Two Embarcadero Center
San Francisco, California 94111
2. Providence and Worcester Company
1 Depot Square
Woonsocket, Rhode Island 02895
3. Itel Corporation
Rail Division-Authorized Agent
Two Embarcadero Center
San Francisco, California 94111

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E.O.C.
FEE OPERATION BR.


The Equipment covered by the Assignment is one hundred (100) 70-ton flush deck flatcars 89'4" in length (A.A.R. mechanical designation FC) bearing the reporting marks DTI 90000 through and including DTI 90099.

Also enclosed is a check in the amount of \$10.00 for the required recording fee.

Ms. Agatha Mergenovich, Secretary
December 22, 1982
Page Two

Please stamp all counterparts of the enclosed Amendment with your official recording stamp. You will wish to retain one (1) counterpart of the document for your files; it is requested that the remaining three (3) counterparts be delivered to the bearer of this letter.

Sincerely,



Patricia Salas Pineda
Counsel

PSP:dmm
Enclosures

cc: Michael Walsh, Esq.
Weil, Gotshal & Manges
767 Fifth Avenue
New York, New York 10020

Robert S. Clark, Esq.
Senior Trust Officer
First Security Bank of Utah, N.A.
Corporate Trust Division
79 South Main Street
Salt Lake City, Utah 84111

Linda Lawrence
Intel Corporation

L-0174
10/5/82

RECOMMENDATION NO. 13077-G
FEB 24 1983 12 55 PM
INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF LEASE AND AGREEMENT, dated as of and effective as of April 28, 1981 (hereinafter called the "Assignment"), by and between **ITEL CORPORATION**, a Delaware corporation (together with its successors and assigns, being hereinafter called "Itel"), and **PROVIDENCE AND WORCESTER COMPANY**, a Delaware corporation by and through its authorized agent, Itel.

WHEREAS, Itel and First Security Bank of Utah, N.A., as Trustee, a national banking association, incorporated and existing under the laws of the United States of America (hereinafter called the "Trustee") have entered into an Equipment Trust Agreement, dated as of November 1, 1978 (such Equipment Trust Agreement, together with any amendments or supplements thereto, being hereinafter called the "Agreement"); and

WHEREAS, Itel and the Providence and Worcester Company (hereinafter called "P&W") entered into a lease of Equipment (as defined in the Agreement), dated as of September 1, 1978 (such lease, together with any amendments or supplements thereto, being hereinafter called the "P&W Lease"), providing for the leasing by Itel to P&W of certain units of the Trust Equipment (as defined in the Agreement, hereinafter "Units"); and

WHEREAS, the P&W Lease may also cover the leasing to P&W of other Equipment not included as part of the Trust Equipment; and

WHEREAS, in order to provide security for the obligations of Itel under the Agreement, Itel assigned to Trustee for security purposes all of Itel's rights, title and interest in, to and under the P&W Lease as and only to the extent that the P&W Lease relates to the Trust Equipment by means of six documents, each entitled Assignment of Lease and Agreement, three of which are dated December 28, 1978, two of which are dated March 22, 1979 and one of which is dated September 1, 1978; and

WHEREAS, by an agreement dated as of September 12, 1980 (hereinafter called the "Agency Agreement"), P&W appointed Itel as its agent, with respect to certain units of Trust Equipment under the P&W Lease, bearing reporting marks PW 105301-105600 and PW 105701-105800, (hereinafter the "Flatcars") to enter into one or more sublease agreements with third parties covering some or all of the Flatcars; and

WHEREAS, under the Agency Agreement, as clarified by letter (hereinafter the "Fee Letter") from P&W to Itel, dated September 12, 1980, Itel shall receive all rentals generated by the Flatcars pursuant to any sublease agreement as a fee for acting as P&W's agent; and

WHEREAS, the Agency Agreement operates to assign to Itel; (1) certain rights under the P&W Lease which would otherwise accrue to and only to P&W, including, inter alia, rentals reserved to the P&W, and (2) certain rights under the P&W Lease which would otherwise ultimately accrue to Itel as lessor under the P&W Lease, including, inter alia, rentals to be paid under the P&W Lease; and in order to (a) more specifically identify the existing security for the obligations of Itel under the Agreement as previously assigned by means of the six documents described above, and (b) provide

further security for the obligations of Itel under the Agreement, Itel, by means of a document entitled Assignment of Agreement, dated as of January 8, 1981, assigned for security purposes only its rights in, to and under the Agency Agreement, including, but not limited to, its rights to act as P&W's agent and receive rentals generated by the Flatcars, to the Trustee as and only to the extent that the Agency Agreement relates to the Trust Equipment; and

WHEREAS, Itel has leased to Detroit, Toledo and Ironton Railroad Company (hereinafter called "Lessee"), under a lease dated as of March 10, 1981 (such lease, together with any amendments or supplements thereto, being hereinafter called the "Lease") one hundred (100) Units, both on its own behalf, as regards certain Units from the series PW 105051 through and including PW 105075, and as agent for P&W, by means of the Agency Agreement, as regards certain of those Flatcars hereinabove defined; and

WHEREAS, pursuant to the Lease, the road numbers of the Units have been changed by re-marking to DTI 90000-90099, inclusive as described in Annex I attached hereto; and

WHEREAS, the Lease may also cover the leasing to the Lessee of other equipment not included as part of the Trust Equipment; and

WHEREAS, in order to continue to provide security for the obligations of P&W under the P&W Lease and the Agency Agreement, as clarified by the Fee Letter (hereinafter the "Clarified Agency Agreement"), P&W agrees to assign to Itel, for security purposes only, P&W's rights in, to and under the Lease as an only to the extent that the Lease relates to the Flatcars.

NOW, THEREFORE, in consideration of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

- I. P&W hereby assigns, transfers and sets over unto Itel, as collateral security for the payment and performance of P&W's obligations under the P&W Lease, and the Clarified Agency Agreement, all of P&W's right, title and interest, powers, privileges and other benefits under the Lease as and only to the extent that the Lease relates to the Flatcars set forth in Annex A hereto, including, without limitation, all rights to receive and collect all rentals, profits and other sums payable to or receivable by P&W from the Lessee under or pursuant to the provisions of the Lease to the extent that the same are payable in respect of such Flatcars, whether as rent, casualty payment, indemnity, liquidated damages or otherwise (such monies being hereinafter called the Payments); **PROVIDED, HOWEVER**, that until an Event of Default under the P&W Lease or the Clarified Agency Agreement or any event which, with notice or lapse of time or both, could constitute such an Event of Default, shall occur, it is understood that P&W shall be entitled to collect and receive all such Payments and to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to apply all Payments to which P&W is entitled to the payment of any and all of P&W's obligations under the P&W Lease and the Clarified Agency Agreement and to retain the balance, if any. In furtherance of the foregoing assignment, but subject to the foregoing provisions of this paragraph, P&W hereby irrevocably authorizes and empowers Itel in its own name, or in the name of its nominee,

or in the name of P&W, or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which P&W is or may become entitled under the Lease, and to enforce compliance by P&W with all the terms and provisions thereof. Whenever a Lease covers other equipment not included as part of the Units and the amount of any payment due to P&W, under such Lease as car hire payments (including both straight and incentive per diem), mileage charges or other rental revenues is calculated on an aggregate basis for all equipment leased thereunder, for the purposes of this Assignment an amount equal to the Assigned Fraction (as hereinafter defined) of each such payment shall be deemed to be payable with respect to such Flatcars leased under such Lease. The term "Assigned Fraction" as used herein shall mean a fraction the numerator of which shall be the number of units of equipment comprising such Flatcars leased under such Lease and the denominator of which shall be the aggregate number of units of equipment (including such Flatcars) at the time leased under such Lease.

2. This Assignment is executed only as security for the obligations of P&W under the P&W Lease and the Clarified Agency Agreement, and therefore, the execution and delivery of this Assignment shall not subject Itel to, or transfer, or pass, or in any way affect or modify, the liability of P&W under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of P&W to the Lessee shall be and remain enforceable by the Lessee, its successor and assigns, against, and only against P&W, or persons other than Itel.
3. To protect the security afforded by this Assignment, P&W agrees as follows:
 - (a) P&W will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides is to be performed by P&W.
 - (b) At the sole cost and expense of P&W, P&W will appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the obligations, duties or liabilities of P&W, under the Lease.
 - (c) Should P&W, fail to make any payment or to do any act which this Assignment requires P&W to make or do, then Itel, but without obligation so to do, after first making written demand upon P&W, and affording P&W a reasonable period of time within which to make such payment or do such act, but without releasing P&W from any obligation hereunder, may make or do the same in such manner and to such extent as Itel may deem necessary to protect the security provided hereby, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of Itel, and also the right to perform and discharge each and every obligation, covenant and agreement of P&W contained in the Lease; and in exercising any such powers, Itel may pay necessary costs and expense, employ counsel and incur and pay reasonable attorneys' fees, and P&W will reimburse Itel for such costs, expenses and fees.

4. Upon the full discharge and satisfaction of all of P&W's obligations under the P&W Lease and the Clarified Agency Agreement, and this Assignment, all rights herein assigned to Itel shall terminate, and all estate, right, title and interest of Itel in and to the Lease shall revert to P&W.
5. P&W will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments required by law or reasonably requested by Itel in order to confirm or further assure the interests of Itel hereunder.
6. If an Event of Default shall occur and be continuing under the P&W Lease and the Clarified Agency Agreement, Itel may assign all or any of the rights assigned to it hereby or arising under the Lease, including without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of Itel hereunder. Itel will give written notice to P&W and the Lessee of any such assignment.
7. This Assignment shall be governed by the laws of the State of Utah, but the parties shall be entitled to all rights conferred by the laws of the United States permitting filing with the Interstate Commerce Commission.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective names, by officers thereunto duly authorized, and their respective seals to be affixed and duly attested, all as of the date first above written.

ITEL CORPORATION

By: 

President, Rail Division

Date: 11/18/82

ITEL CORPORATION, as authorized agent for
PROVIDENCE AND WORCESTER COMPANY

By: 

Authorized Officer

Date: 11/18/82

ANNEX IPrevious PW
Reporting MarksCurrent DTI
Reporting Marks

PW 105051	DTI 90000
105054	90001
105055	90002
105057	90003
105058	90004
105060	90005
105064	90006
105066	90007
105067	90008
105068	90009
105069	90010
105070	90011
105073	90012
105074	90013
105075	90014
105307	90015
105317	90016
105323	90017
105335	90018
105342	90019
105344	90020
105353	90021
105361	90022
105367	90023
105373	90024
105375	90025
105379	90026
105389	90027
105395	90028
105400	90029
105401	90030
105407	90032
105419	90033
105427	90034
105428	90035
105429	90036
105436	90037
105439	90038
105443	90039
105448	90040
105451	90041
105455	90042
105460	90043

ANNEX I (Continued)Previous PW
Reporting MarksCurrent DTI
Reporting Marks

PW 105462	DTI 90044
105468	90045
105475	90046
105476	90047
105479	90048
105487	90049
105494	90050
105495	90051
105520	90052
105529	90053
105538	90054
105542	90055
105544	90056
105551	90057
105566	90058
105581	90059
105582	90060
105587	90061
105588	90062
105592	90063
105594	90064
105598	90065
105712	90066
105726	90067
105731	90068
105740	90069
105742	90070
105743	90071
105745	90072
105750	90073
105753	90074
105757	90075
105760	90076
105762	90077
105763	90078
105769	90079
105773	90080
105780	90081
105788	90082
105795	90083
105798	90084
105431	90085
105724	90086
105393	90087
105382	90088
105585	90089
105457	90090

L-0172

ANNEX I (Continued)

Previous PW
Reporting Marks

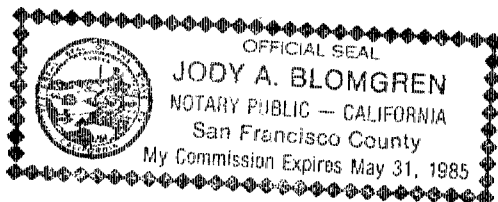
PW 105360
105426
105469
105517
105531
105777
105056
105059
105061

Current DTI
Reporting Marks

DTI 90091
90092
90093
90094
90095
90096
90097
90098
90099

STATE OF CALIFORNIA)
)
COUNTY OF SAN FRANCISCO) ss:

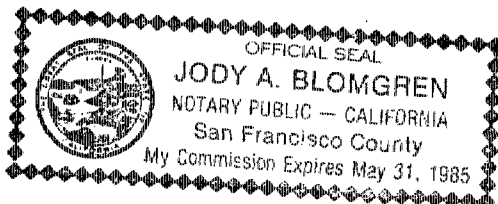
On this 18th day of November, 1982, before me personally appeared Edward M. O'Dea, to me personally known, who being by me duly sworn says that such person is President of Itel Corporation, Rail Division, that the foregoing Assignment was signed on behalf of said corporation by authority of its Board of Directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Jody A. Blomgren
Notary Public

STATE OF CALIFORNIA)
)
COUNTY OF SAN FRANCISCO) ss:

On this day 18th of November, 1982, before me personally appeared Edward M. O'Dea, to me personally known, who being by me duly sworn says that such person is President, Rail Division of ITEL CORPORATION, an authorized agent for PROVIDENCE AND WORCESTER COMPANY, that the foregoing Assignment was signed on behalf of Itel Corporation, by authority of its Board of Directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Jody A. Blomgren
Notary Public